

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

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Defendant.

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An evidentiary hearing is necessary to resolve defendant Rebecca Lynn Williams's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (ECF No. 978). In one of the three § 2255 claims, Williams alleges that counsel rendered ineffective assistance, in violation of the Sixth Amendment, by not filing a notice of appeal after being asked to do so. Consequently, Williams presents at least one colorable claim of ineffective assistance of counsel, and the court defers adjudication of her other § 2255 claims. *See, e.g., United States v. Killian*, 22 F. App'x 300, 301 (4th Cir. 2001) (unpublished) (stating that a district court should not adjudicate other § 2255 claims if vacatur is warranted); *United States v. Witherspoon*, 231 F.3d 923, 926-27 (4th Cir. 2000) (discussing effective representation as to notices of appeal).

For these reasons, it is hereby **ORDERED** as follows:

1. The United States' Motion to Dismiss (ECF No. 1023) is TAKEN UNDER ADVISEMENT;
2. The defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 will be subject to an evidentiary hearing before the undersigned, limited to the claim that counsel was ineffective regarding the defendant's desire to appeal;
3. The clerk will arrange the appointment of counsel for defendant for the hearing;
4. The clerk will schedule the hearing and will arrange for the defendant to appear at the hearing by video conference from her place of incarceration; and
5. The clerk will send copies of this Order to the defendant and to appointed counsel.

ENTER: April 9, 2019

/s/ James P. Jones
United States District Judge